Beebe, 123 Iowa 620; *Belser v. Moore,* 73 Ark. 296. But it is held that the use of a way for the statutory period, unexplained, raises the presumption that it is used under a claim or assertion of right, and not by permission, and casts upon the owner of the soil the burden of showing that it is merely permissive. *Hammon v. Zehner,* 23 Barb. 473; *Clement v. Battee,* 65 N. J. L. 674. *Pavey v. Vance,* 56 Ohio St. 162. Some courts have held that the use of land, whenever one sees fit and without asking leave, is an adverse use. However, the use of a way without objection or hindrance is not inconsistent with its use by permission. It must appear that the use was enjoyed under such circumstances as to indicate that it was claimed as a right and not regarded by the parties as a mere privilege revocable at the pleasure of the owner of the soil. *C. B. & Q. R. R. Co. v. Ives,* 202 Ill. 71; *Conyers v. Scott,* 94 Ky. 123.

FALSE IMPRISONMENT—ARREST ON CRIMINAL CHARGE—DAMAGES—ELEMENTS OF COMPENSATION.—CLARK V. TILTON, 68 ATL. 335 (N. H.).—*Held,* that the measure of damages would be the amount which would compensate plaintiff for the injury he had sustained because of the arrest, and not such damages as resulted to him by the suppression of the criminal prosecution.

It seems that the courts have been far from uniform in allowing the expenses incurred in the prosecution of cases of torts to be recovered as damages. *Bank v. Williams,* 62 Kan. 431; *Wilson v. Town of Granby,* 47 Conn. 59. In general, the principle which seems to guide the courts in this regard is the distinction drawn as to the malice or negligence of the act complained of. *Clark v. Wolfe,* 115 Ga. 320; *Eatman v. Railroad Co.,* 35 La. Ann. 1018. In actions for false imprisonment, however, the courts have allowed counsel's fee and costs necessarily incurred because of the false imprisonment to be considered with other expenses in the jury's estimate of damages, even though no bad faith or litigious conduct on the part of the plaintiff appears. *Stewart v. Kimball,* 43 Mich. 443; *Parsons v. Harper,* 16 Gratt. 64. And as a general rule it is held that the measure of damages in these cases is the actual expense incurred. *Duggan v. B. & O. R. R.,* 159 Pa. St. 248; *Woodfolk v. Sweeper,* 2 Humphr. 88.

GARNISHMENT—SUMMONS—WHEN ISSUED.—WEBSTER MFG. CO. V. PENROD, 114 N. W. 257 (MINN.).—*Held,* that a garnishee summons is issued when delivered by the plaintiff or his attorney to the proper officer for service upon the garnishee, and when the writ is sent to the officer by mail, delivery is not completed until received by him.

In those states in which the issuing of the writ is the commencement of the action, "issuing" is generally construed to mean the delivery of the writ to the sheriff with the intent to have it served. *Wilkins v. Worthen,* 62 Ark. 401. And a writ is said to be "delivered" within the meaning of this rule when it is placed in the hands of the proper officer or deposited in a place designated or provided by the officer for that purpose, or put in the course of delivery. *Mich. Ins. Bank v. Eldred,* 130 U. S. 693; *Webster v. Sharpe,* 116 N. C. 466. So, as it is held in some states that when a letter is placed in the post-office it passes out of control of the sender and into that of the person to whom it is addressed, *Taylor v. Merchants Life Ins. Co.,* 9 How. 390, by analogy, the writ is deemed by some courts to be delivered to the officer when it is mailed, addressed to him. *Burdich v. Green,* 18 Johns. 14.